

STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas (PCR)
The Honorable Doyet A. Early, III, Circuit Court Judge

C/A No.: 2005-CP-18-1368
(Capital PCR Action)
Appellate Case No. 2014-000387

RECEIVED

JUL 10 2014

S.C. SUPREME COURT

Kenneth Simmons, #5066,

Respondent/Petitioner,

vs.

State of South Carolina,

Petitioner/Respondent.

**MOTION FOR EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI**

Petitioner/Respondent, the State, moves this Court for an additional four (4) day extension of time in which to file the Petition for Writ of Certiorari. The timelines for filing both the State's petition and Respondent's petition in the cross-appeal were previously extended once before by Order of this Court dated May 2, 2014; and, additionally, this Court has allowed the State one prior extension for an additional thirty (30) days after the State completed, copied and served the eleven (11) volume appendix. Undersigned counsel for the State has completed substantial work on the petition; however, counsel would respectfully request a brief four (4) day extension to adequately complete the petition. In support of this request, undersigned counsel would respectfully show the Court:

1. In the last thirty (30) days, undersigned counsel has been scheduled for a number of other state matters and federal matters in addition to work on the petition. These include, but are not limited to, the following: aided in the drafting of a bench memorandum of law in a capital

post-conviction relief action still pending in the state circuit court after continuance of the evidentiary hearing in April of this year, and continued communications with possible experts in genetic condition diagnosis for trial testimony to complete the evidentiary hearing (*Andres Torres*); prepared and filed a return and memorandum in support of motion for summary judgment in a federal habeas action and also prepared and filed, at the direction of the Magistrate, a subsequent response in opposition to a letter alleging misconduct by the Warden in the same federal habeas action (*Bynum Rayfield*); prepared and filed a return and memorandum of law in support of motion for summary judgment in another federal habeas action (*Shannon Todd*); prepared and filed three (3) briefs of respondent in three (3) different non-capital murder direct appeal actions in this Court (*Christopher Whitehead, Derrick McDonald, Danny Ryant*); prepared and filed a return and memorandum of law in support of motion for summary judgment in another federal habeas action (*Alberto Lopez*); and, has also been communicating in regard to securing for review all relevant transcripts in another capital case on direct appeal in the Supreme Court of South Carolina (*Ricky Blackwell*). Counsel has also been working on a return to the petition for writ of certiorari in another capital post-conviction relief action on appeal to be filed on or before the July 28, 2014 in this Court. (*Stephen Corey Bryant*). Further, counsel prepared copies of the case file and transcripts for the PCR judge at the judge's direction in a capital post-conviction action in state circuit court, the pending action having been recently assigned to another circuit court judge tasked with issuing a scheduling order by July 10, 2014, and prepared for and today attended a scheduling conference to comply with the directive of this Court to complete the scheduling Order by July 10, 2014 (*William O. Dickerson*).

2. Due to this heavy case load, undersigned counsel for Petitioner has not been able to complete a proper petition. However, as noted, counsel has completed a substantial portion of the petition and requests only a brief extension of four (4) days in which to finish, serve and file.

THEREFORE, undersigned counsel for Petitioner/Respondent, the State, for all the foregoing reasons, respectfully requests an additional extension of four (4) days, up to and including Friday, July 11, 2014, to complete, serve and file the petition.

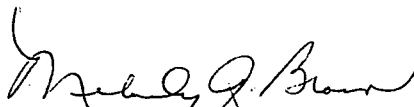
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

MELODY J. BROWN
Senior Assistant Attorney General
S.C. Bar No.: 14244

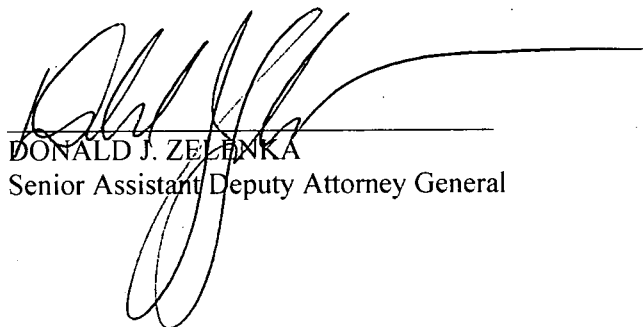
BY: 
MELODY J. BROWN

Office of the Attorney General
Post Office Box 11549
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July 7, 2014.
Columbia, South Carolina.

ATTORNEYS FOR PETITIONER/RESPONDENT

I have reviewed and approve this request:


DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

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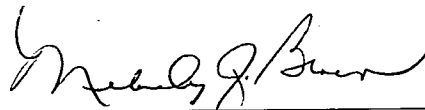
CERTIFICATE OF SERVICE

I, Melody J. Brown, Senior Assistant Attorney General, certify that I have served the foregoing *Motion for Extension of Time to File Petition for Writ of Certiorari* on counsel for Respondent/Petitioner by depositing one copy of same in the United States mail, postage prepaid, addressed as follows:

James Morton, Esquire
Morton & Gettys, LLP
P.O. Box 707
Rock Hill, SC 29731

Emily C. Paavola, Esquire
Death Penalty Resource & Defense Center
900 Elmwood Avenue, Suite 101
Columbia, SC 29201

This 7th day of July, 2014.



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ATTORNEY FOR PETITIONER/RESPONDENT